

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, September 28, 2005, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Dick Esseks, Gerry Krieser, Roger Larson, Melinda Pearson, Lynn Sunderman, Mary Bills-Strand and Tommy Taylor; Marvin Krout, Ray Hill, Steve Henrichsen, Kent Morgan, Mike DeKalb, Brian Will, Greg Czaplewski, David Cary, Joe Rexwinkle, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held September 14, 2005. Motion for approval made by Strand, seconded by Carroll and carried 8-0: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Sunderman and Strand voting 'yes'; Taylor absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

September 28, 2005

Members present: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Strand and Sunderman; Taylor absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 05065; MISCELLANEOUS NO. 05021; SPECIAL PERMIT NO. 2022A; SPECIAL PERMIT NO. 05045; SPECIAL PERMIT NO. 05046; COMPREHENSIVE PLAN CONFORMANCE NO. 05009; and COMPREHENSIVE PLAN CONFORMANCE NO. 05011.**

Ex Parte Communications: None.

Item No. 1.1a, Change of Zone No. 05065; Item No. 1.1b, Miscellaneous No. 05021; and Item No. 1.4, Special Permit No. 05046 were removed from the Consent Agenda and scheduled for separate public hearing.

Strand moved to approve the remaining Consent Agenda, seconded by Carroll and carried 8-0: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Strand and Sunderman voting 'yes'; Taylor absent.

Note: This is final action on Special Permit No. 05045, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 05065
A TEXT AMENDMENT TO TITLE 27
OF THE LINCOLN MUNICIPAL CODE
and
MISCELLANEOUS NO. 05021,
A TEXT AMENDMENT TO TITLE 26
OF THE LINCOLN MUNICIPAL CODE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 28, 2005

Members present: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson.

Staff recommendation: Approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda and had separate public hearing at the request of Commissioner Pearson.

Proponents

Rick Peo of the City Law Department appeared to answer questions.

Pearson asked Peo to clarify the purpose of these text amendments. Peo explained that under the existing procedures, when a matter is appealed from the Planning Commission to the City Council, there are two resolutions drafted – one to affirm the action of the Planning Commission, and a second to reverse the action of the Planning Commission. Council Members, Jonathan Cook, requested these text amendments to simplify the procedure such that only one resolution is prepared for the City Council. Thus, the Planning Commission action becomes advisory to the City Council as opposed to final action. The City Council then proceeds to make the same type of decision under the same criteria. There won't be any substantial difference in the way that the matters are handled. It does not change the action of the Planning Commission of approval or denial. It basically simplifies the paperwork in front of the City Council. It does not change the timeline.

Peo further clarified that the applicant will be required to file an appeal, at which time the Planning Commission decision becomes an advisory recommendation that goes to the City Council. Krout further clarified that it is only a language change. It does not change any other procedure.

There was no testimony in opposition.

CHANGE OF ZONE NO. 05065

ACTION BY PLANNING COMMISSION:

September 28, 2005

Larson moved approval, seconded by Krieser and carried 9-0: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson voting 'yes'. This is a recommendation to the City Council.

MISCELLANEOUS NO. 05021

ACTION BY PLANNING COMMISSION:

September 28, 2005

Carroll moved approval, seconded by Larson and carried 9-0: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 05046

FOR A NONPROFIT EDUCATIONAL AND PHILANTHROPIC

INSTITUTION ON PROPERTY GENERALLY

LOCATED AT S. 26TH AND N STREETS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 28, 2005

Members present: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

This application was removed from the Consent Agenda and had separate public hearing.
Proponents

1. William Michener, 842 Sumner Street, presented the application. The Lighthouse is currently located in this same neighborhood at 2530 N Street, about ½ block west of the subject site for relocation. This is a nonprofit after-school program looking to build a new facility because they need a larger area for the young people. The Lighthouse is located in one of the highest need neighborhoods in Lincoln. The Lighthouse is open Monday through Friday, directly after school until 10:00 p.m.

2. Joy Holmes, 315 S. 26th, testified in support because her daughter is almost 14 and loves the Lighthouse where she does her homework and is able to get some tutoring. The Lighthouse keeps the kids out of trouble and off the streets. It is wonderful.

Opposition

1. Jayne Sebbby, 320 S. 29th, testified on behalf of Carol James, President of **Woods Park Neighborhood Association**, with mixed feelings about this proposal. She agreed that the Lighthouse is a wonderful facility and the neighborhood does enjoy having them as neighbors; they do a great job with kids; the kids have even come and helped the neighborhood association; and they would like to keep them in the neighborhood. However, the association just recently received notice of this proposal so they have not had the opportunity to take it to the Board or the rest of the neighborhood. It appears to be a very nice design and it looks like it would meet their needs; however, the proposed location does extend into a residential neighborhood. This would destroy two very lovely homes, which are now rental properties on the edge of the residential part of the neighborhood. They are actually two of the nicer homes in that area. It is also the neighborhood where Fernando Pages is building a multi-plex. Therefore, Sebbby suggested that this is Woods Park Neighborhood's last chance to keep this neighborhood as residential. The neighborhood association is also concerned about the existing horrible situation with on-street parking. There appear to be only nine parking spaces for staff members, etc. The only street parking is on 26th Street. The neighborhood association is also concerned that there is some sort of recreational facility attached to the new location, and they are not sure that is appropriate for a residential neighborhood.

Taylor asked Sebbby how she sees this change affecting the neighborhood in terms of making it less of a family residential neighborhood. Sebbby responded, stating that 26th Street shows why we changed the law about slip-ins in older neighborhoods. We already have a criminal issue there. Police incidents tend to be higher on that street than in other parts of the neighborhood. She is not sure Lighthouse would change that, but it is already an issue. Anytime you bring more people into the neighborhoods, there are issues with transportation, parking, etc.

Taylor wondered whether Sebbby believes this would increase the night-time traffic. Sebbby would not be surprised if it did increase the night-time traffic. The kids walk but some of them do have vehicles. She wonders whether there will be athletic events in the building. This proposal was not brought before the Woods Park Board to get any reaction. They are interested in keeping the Lighthouse in the neighborhood, but can we do this without an adverse impact on the neighborhood?

2. Don Pearston, 229. S. 26th, testified in opposition, reminding the Commission that RSACC (Rape Spouse Abuse Crisis Center) is expanding down his driveway to his property line; their parking facilities do not hold all the parking they need, and the cars are flooding the street until 6 or 7 p.m. every night. He suggested that the location of the Lighthouse as it exists today is perfect with easy access. The proposed expanded location is not just on N Street. The building will be on the southeast corner of 26th & N, plus the building behind it with a S.

26th address. Pearston lives behind RSACC and has experienced all of the expansions of the various organizations. He has lived in the neighborhood for four years. He knows what the Lighthouse does, and he believes it will definitely increase the car and pedestrian traffic and noise. This is his neighborhood and he and his neighbors want to have peace and quiet where they come home and live. He believes that the building next door and the proposed building across the street is a devaluation of that peace, their property and their peace of mind, in general.

Pearston is not opposed to the Lighthouse organization and what it does for the youth. Their mission is equitable and needed, but do we need to do it in our neighborhood? Why not keep it on N Street or another site so that it does not impact the neighborhood as much? What about alternate sites?

Response by the Applicant

Michener believes that some of the concerns raised are valid, but he believes the applicant has done the research and has attempted to resolve some of those concerns. Over 80% of the young people either walk or ride their bike to the Lighthouse. The majority do not own a vehicle. The parking in the back of the building will provide for the drop-off location. As far as being a family neighborhood – that is what is stressed at the Lighthouse – to be a part of the family. These young people do not have a place to go so we want to give them that family atmosphere. The youth are not unsupervised. The current recreation area is outdoors behind the building but there is always staff wherever there are youth. The house faces N Street – the main entrance will be on N Street.

Taylor inquired whether the applicant has considered any other locations. Michener advised that they did consider the property next door to the current location, but the owner is planning to put a professional building there. Across the street is being turned into a parking lot for an existing organization on O Street that owns that property.

Esseks was concerned about access. Michener advised that there is enough room on the plan to pull into the property and turn around. Access will be from S. 26th, not S. 27th.

Strand inquired about recreational events at the center. Michener stated that the Lighthouse does not invite competition. The recreational space is for the young people attending the Lighthouse.

Strand inquired about handicap accessibility. Michener advised that there is no handicap accessibility at the existing location. They want to be available to all young people without limitation and barriers.

The existing facility would be sold and probably removed because it is not zoned residential.

Pearson asked whether the applicant would be opposed to a two week delay in order to meet with the neighborhood association. Michener stated that he is interested in meeting with the neighborhood association and he would not be opposed to a delay. However, they did distribute fliers in the neighborhood and had a public neighborhood meeting last Wednesday at 6 p.m., and only one person showed up. He went into the neighborhood in a one-block radius each way of the proposed site.

ACTION BY PLANNING COMMISSION:

September 28, 2005

Taylor moved approval, with conditions, seconded by Strand.

Taylor believes the applicant could meet with the association and there is an opportunity for an appeal to the City Council, if the neighborhood association so desires.

Carroll noted that the building has to meet the neighborhood design standards so it will have to fit into the neighborhood. The Lighthouse does an excellent service and he believes that it needs to be in the neighborhood.

Pearson stated that she is a big fan of the Lighthouse, but she believes the neighbors have a valid point about it being on the block between N and O, which has a much higher activity level. This is moving into a neighborhood directly across the street from RSACC. That makes that corner fairly highly active. The driveway is on S. 26th Street mid-block so the people with the house south of this parcel will look out to a driveway and a parking lot for nine cars. She believes this is significant for the neighborhood. She believes there needs to be some neighborhood input. She believes that the Commission should be more thoughtful and take more time, thus she would be more in favor of a two-week delay.

Esseks stated that he supports a two-week delay, and the applicant finds it acceptable. He believes that some effort to address the concerns of the neighbors makes sense, particularly with regard to some sort of buffer for the parking area or arranging for the parking area to be on the other side.

Motion for conditional approval carried 6-3: Krieser, Taylor, Larson, Strand, Carroll and Sunderman voting 'yes'; Pearson, Esseks and Carlson voting 'no'. This is final action, unless appealed to the City Council within 14 days.

COUNTY CHANGE OF ZONE NO. 05063
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT N.W. 105TH STREET AND ALVO ROAD (HWY 34).
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 28, 2005

Members present: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson.

Staff recommendation: Denial.

Ex Parte Communications: None.

Additional information submitted for the record: Mike DeKalb of Planning staff submitted four letters in opposition based upon concerns about water quality and quantity. The petition bearing 47 signatures requests the approval of the change of zone for ONLY the 20 acres owned by Steve Schmidt as opposed to the entire 40 acres, citing the same concerns about water quality and quantity.

Proponents

1. Steve Schmidt, 7000 N.W. 105th Street, owns the south 20 acres and his brother owns the north 20 acres. He withdrew the change of zone request on his brother's property (the north 20 acres). However, he would still like to have the south 20 acres zoned AGR for purposes of his son who just got married and wants to build a home on the south 10 acres.

As far as the water concerns, he agrees that 3-acre developments would be a concern; however, if this change of zone on the south 20 acres is approved, his son will purchase 10 acres and will build one home on it so there will only be two 10-acre lots.

There was no testimony in opposition.

Staff questions

Esseks commented that turning this into just two 10-acre parcels seems to be a reasonable solution to the issues raised by the neighbors and would not represent much of an increase in density, but once we rezone to AGR, subsequent owners can apply for 3-acre parcels. DeKalb concurred. If the AGR zoning is in place, the long term potential could be for sale and replatting to 3-acre lots. Another option discussed with the applicant was an attempt to purchase additional land to the east and do a farmstead split on the existing house under the AG zoning. The homestead split under the zoning code could be one acre, but Health will typically require three acres. The applicant could do a homestead split if he

could purchase three additional acres. Esseks suggested that the applicant could purchase three acres from his brother to the north. DeKalb concurred, but if one parcel becomes 23 acres and the other 17 acres, it creates a 17-acre lot that is less than the standard.

DeKalb confirmed that the withdrawal of the north 20 acres does not change the staff recommendation of denial.

Esseks wondered whether the Commission could put a restriction on the approval of the change of zone, limiting it to two 10-acre parcels. DeKalb believes this would be a question for the County Attorney. The County Board has discussed contract zoning, so it might be a viable option.

Response by the Applicant

Schmidt stated that he has no intention to sell or develop any further. He has had good responses from his immediate neighbors. He does not want to have to purchase any additional property.

ACTION BY PLANNING COMMISSION:

September 28, 2005

Esseks moved approval, providing both the applicant and county agree to a deed restriction limiting this 20-acre parcel to two building lots, seconded by Taylor.

Rick Peo of the City Law Department advised that the restriction is more appropriate as a comment on the record as opposed to a condition of approval.

Marvin Krout, Director of Planning, advised that the County Board had discussed contract zoning in relation to a concrete plant and in the end that case was denied. The County Attorney advised the County Board that they could have an agreement conditioning density or adding other conditions as we have done in the city. However, if we continue to do the contract zoning, we will need to codify it in both zoning codes.

Carlson agrees that the County Board has done contract zoning, but the Planning Commission has not. As chair, Carlson called the motion out of order and requested another motion.

Strand moved approval of the change of zone to AGR on the south 20 acres, seconded by Larson.

Pearson stated that she will vote against the motion because AGR zoning is 3-acres.

Strand suggested that in order to enable Mr. Schmidt to give part of his land to his son, she would suggest that the County Board allow only two buildable lots on this land.

Pearson further commented that there are a lot of 20-acre parcels out there. For the Planning Commission to allow AGR for two parcels is legislative and she does not believe that is

something the Planning Commission has authority to do. The applicant does have the ability to buy three more acres. She suggested that it is more sensible to deny and let it go to the next step and let the County Board allow it if they choose. She does not believe it is appropriate to make an exception to the standards for one individual.

Carroll agreed with Pearson. He believes the change of zone should be denied because there are too many questions, and it opens the door to other people. The County Board can make the decision as to whether to allow it under an agreement not to make it more than two lots per 20 acres. He believes it is important for the Planning Commission to deny because it does not follow what is designated in that area at this time.

Motion for approval failed 1-8: Taylor voting 'yes'; Krieser, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson voting 'no'.

Carroll moved to deny, seconded by Sunderman and carried 8-1: Krieser, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson voting 'yes'; Taylor voting 'no'. This is a recommendation to the County Board.

CHANGE OF ZONE NO. 05070
TEXT AMENDMENTS TO TITLE 27,
and
MISCELLANEOUS NO. 05023,
TEXT AMENDMENTS TO TITLE 26,
RELATING TO USE OF "BEST AVAILABLE INFORMATION"
IN THE FLOODPLAIN REGULATIONS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 28, 2005

Members present: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson.

Staff recommendation: Approval.

Ex Parte Communications: None.

Additional information submitted for the record: Ray Hill of the Planning staff submitted an e-mail from Foster Collins in support.

Proponents

1. Nicole Fleck-Tooze of Public Works & Utilities, presented the applications. This is a text revision to make clarifications and address discrepancies regarding the use of "best available flood information" within the existing urban and new growth areas, for both the zoning and subdivision regulations. The intent is to correct an inconsistency when the City Council adopted changes in 2004 which recognized updated floodplain information in the new growth areas. Revised floodway boundaries may be part of that updated floodplain information.

There are mapping efforts underway for stream reaches that are within the existing urban area. It is important for Building & Safety to be able to apply this information. These text changes were routed to the development community and presented to the Mayor's Neighborhood Roundtable on September 8, 2005. These amendments provide a mechanism to consistently apply the "best available information" throughout the city's jurisdiction.

2. Marilyn McNabb, who was a member of the Floodplain Task Force, testified he support. The task force always assumed that we would use the best available information, where possible. It was the least controversial thing discussed by the task force. We need to use our best information to protect ourselves.

3. Russell Miller, 341 S. 52nd, testified in support and showed an example of what happens if you don't use the best information available, i.e. 3500 Baldwin Avenue in Dead Man's Run.

Opposition

1. Peter Katt, a member of the development community, testified in opposition, focusing on the imposition of these regulations in the existing urban area. This is much more than a technical amendment. That is a mischaracterization. It extends the city's upgraded floodplain management policies into the urban area by creating a term called a "floodprone area", thus creating the city's regulatory authority in an area that currently does not exist. He was here when the "best available information" was adopted in the reaches that it affected Prairie Village on 84th and Adams. There were numerous errors in the information that was put together. These studies done by the City do not guarantee or assure accuracy. "Best available" is just that. The purpose of having the federal flood legislation is that when you update the FEMA study maps and create that information, there is a very extensive public process involved before you change the maps. There is scientific review and opportunities for public input. It is bad policy to have two different competing standards. The difference between new growth areas and existing urban growth areas is dramatic in that there is already a lot of development that has other impacts as a result of changing this floodprone area. Another key difference is that we have adopted a different regulatory standard in the new growth areas – no net rise or rise of .05. So in order to implement that new regulatory standard in the new growth areas, you do need to create floodprone areas. In the existing city we are not proposing to change that standard, so the increment of regulatory power the city gains is small. Katt contends that there is plenty of regulatory control in the existing urban area. We don't need to add more. Let the update of the FEMA maps happen. The information is available and it is impacted in projects that are in process. He does not believe there is any real need to impose another regulatory system within the existing urban area.

Katt proposed an amendment in the new growth area regulations, i.e. move the decimal point from .05 to .5 in the new growth areas.

Taylor asked Katt to address the comments made by Mr. Miller. Katt suggested that it was an example of a bad business decision. It was not because the city had or had no regulations in place. It was because he chose to use the information that was readily available. This is

not a case where the information is not available. It is the issue of do you want to give regulatory authority to the city with regard to this information? "Best available" implies some stamp of approval that he does not believe is justified.

Taylor wondered whether the example given would have been different had these regulations been in place. Katt's response was that if the information had been in place, the individual would have had to bring in six feet of fill to do the project. The project would not have been stopped but he would have had to either fill it or flood proof it.

Pearson posed the question to Katt: Are you really saying that people who live inside the city should not be protected with the best available information on flooding? Katt responded, "no, I'm saying the city should not adopt a regulatory standard with information that is not reliable." There has been no independent analysis. The impacts in new growth areas do not have the same level of investment. There is a ripple effect. It is not as simple as saying we are going to protect people by having best available information. It is much more complicated. Changing floodplain lines on a map has dramatic consequences in the marketplace. It should not be done where people have made tremendous investments without making sure the information has gone through the FEMA process.

Staff questions

Esseks inquired as to how often FEMA updates the floodplain maps. Fleck-Tooze indicated that Public Works is currently in the process of an update as a cooperating technical partner with FEMA for five different stream reaches. Stevens Creek has been adopted and there are four others that are in various stages of completion. We are in a period of time where we are seeing more updates than we have in the past because of that partnership and because there is an overall nationwide effort to do updating. All floodplain mapping is being conducted by qualified professional engineers who work in this area, and all in accordance with FEMA's floodplain standards for mapping with very specific guidelines. They are using the very best technology; the most recent topography; and the most up-to-date model efforts, so they are significantly more accurate than previous floodplain mapping efforts.

Esseks inquired as to the time lapse between when the updates would be available and when FEMA would approve it. Fleck-Tooze advised that she expects to see formal update approval in the spring of 2007. There may be some floodprone areas designated about a year and a half before the time adopted by FEMA.

Esseks inquired as to a property owner's recourse if they feel the information gathered by the city is inaccurate. Fleck-Tooze advised that the property owner would have ability to submit technical information that shows there is something different than what has been demonstrated in the modeling effort. All of the models that we have thus far have been provided to the engineering community.

Response by the Applicant

Fleck-Tooze pointed out that the maps are not before the Commission for adoption. What is before the Commission today is a text change that says as the City Council adopts updated floodplain information, it should be consistently used and applied whether in the new growth area or existing urban area. The maps are adopted by the City Council This is not a change to measures that are required for development in the floodplain. It is simply a change to recognize "best available information", and we do follow FEMA guidelines for floodplain efforts. It is important to have the updated information. Fleck-Tooze would advocate that it is good policy. It is not in the public interest to make a conscious decision not to utilize the information that is there.

With regard to Mr. Katt's proposed amendment to the new growth areas, Fleck-Tooze observed that the "no net rise" or .05 was a major policy decision previously adopted. What Mr. Katt is proposing (.5) is a very significant change that has not been any part of a public process.

CHANGE OF ZONE NO. 05070

ACTION BY PLANNING COMMISSION:

September 28, 2005

Taylor moved approval, seconded by Pearson.

Taylor commented that if this had been in place then there would have been guidelines available that would have forced the developer (in the example given by Russell Miller) to make an adjustment prior to completing the development.

Pearson also believes it is important that we protect the people inside the city as well as those in the new growth areas with the best available information. We have seen cases recently where they have not protected people inside the city and we don't want to be there.

Esseks noted that the federal bureaucracy is overwhelmed at this point and funding may not be generous in the future so this is a good incentive for local governments to hire the skilled personnel to do what the feds cannot do expeditiously.

Strand feels the definition for "floodprone area" goes too far so she will vote in opposition.

Motion for approval carried 5-4: Taylor, Pearson, Carroll, Esseks and Carlson voting 'yes'; Krieser, Larson, Strand and Sunderman voting 'no'. This is a recommendation to the City Council.

MISCELLANEOUS NO. 05023

ACTION BY PLANNING COMMISSION:

September 28, 2005

Carroll moved approval, seconded by Pearson and carried 5-4: Taylor, Pearson, Carroll, Esseks and Carlson voting 'yes'; Krieser, Larson, Strand and Sunderman voting 'no'. This is a recommendation to the City Council.

*** Break ***

MISCELLANEOUS NO. 05016

**REVIEW OF PROPOSED DECLARATION OF
BLIGHT AND SUBSTANDARD AREA FOR
THE NORTH 56TH STREET AND ARBOR ROAD
REDEVELOPMENT AREA.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 28, 2005

Members present: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Ex Parte Communications: None.

Additional information submitted for the record: Steve Henrichsen of Planning staff submitted two letters in support, one from Noel Parrott of Wapiti Enterprises, the owner of several parcels in the area; and one from Harlan Baehr, owner of Dustrol, Inc., which owns property east of 56th Street, south of Arbor Road, a company specializing in recycling and asphalt concrete pavement with 40 employees.

Proponents

1. Darl Naumann, Economic Development Director of Lincoln and Lancaster County, presented the blight study for North 56th and Arbor Road. This is the conclusion of nine months of work with the business owners and developers on North 56th Street. The city was approached to talk about the conditions on North 56th Street and, just like the solution to West "O" Street, the conclusion was that the best available remedy to blight and substandard areas is to do targeted development. Two experts were retained to do the blight study, Julie Post and Jim Caruso. The boundaries of the study include the land between North 40th and North 70th Streets lying south of the interstate and between North 40th and Hwy 77 from I-80 to approximately 1/4 mile south of Bluff Road. The study finds that the development which occurs, without the benefit of comprehensive planning, public utilities and adherence to land subdivision regulations, meets the criteria of substandard and blight according to relevant state statutes. The study further concludes that authority should be granted to proceed with preparation of a redevelopment plan. This presents an opportunity to provide visible easy access for residential, commercial and industrial development for these centers.

Naumann went on to explain that redevelopment tools are enhanced by a blight and substandard designation. Other funding sources can be used as well as tax increment financing (TIF).

Larson inquired whether all of the land is in the city limits. Naumann advised that some is in the city limits and some in the county. In order for it to be eligible for TIF, it would all have to be annexed into the city.

Esseks inquired whether all of the land is going to be in the service limit area. Naumann advised that there are two designations that will go into this area. The future service limit does extend to most of the development area included in the blight study. It does have a ridge line halfway through north of the interstate and there is a designation that shows that as a future development area if we have a large industrial development that wants to locate there. Most of it is in the future service limit and it has already been targeted in Tier I.

Carlson asked for an explanation of “targeted development area” because it is his understanding that the state requires that blight studies and blight activities be done as a result of blight as opposed to potential development. Naumann explained that the redevelopment area included is a large enough area (1800 acres) that includes the blight. You have to make it large enough for the TIF to give you revenue to alleviate the blight in the other areas.

Carlson observed that this seems different because 76% of the land is vacant or agricultural acreages. Naumann observed that 64% of the West “O” Blight Study was vacant land. Since the approval of that blight study, at least six developers have come forward to talk about developing on those sites.

Carlson indicated that he is on board in terms of creating future development, but wants to address the blight study. There are 11 single family homes with an average age of 72 years, and 15 nonresidential structures of 12 years. What do we typically see in a blighted area? **Julie Post** explained that there is a lot of criteria that goes into blight and the requirement is to meet one or more. Bad buildings would be criteria in some areas, but this area has a lot of relatively new development, specifically commercial, and that development leads it to the blight designation because it is not happening in a coordinated fashion. This is the law so that cities can plan their communities. The blight designation would give the opportunity for a redevelopment plan and to do proper planning, plus plan the areas that have not yet undergone much development. TIF is not only a financing tool, but also a development and planning tool. Some states do not even require a blight criteria. The law is very broad and within the statute it says it should be broadly interpreted. You have to meet one or more criteria. In this case, it is lack of infrastructure – poor water, no sewer. That is the substandard and blighting criteria of this area.

Jim Caruso added that state law is very clear in laying out the criteria for blighted and substandard. We typically view substandard and blighted in context of buildings. Our experience in this community, until the Waverly blight study and West “O” blight study, looked

at it in the sense of the buildings and whether they were substandard and blighting on the landscape, but state law is broad enough that it allows you to look at lands in the context of this study. We looked at what happened in the area that is built, i.e. sanitary facilities and lack thereof; and those that are in place have some serious issues. You can make the case that if development were to occur in those areas not yet developed, that the same things would happen because you don't have the necessary utilities. You need to make that area large enough so that there can be sufficient TIF generated that will in fact make the area developable. Caruso feels confident from his review and his interpretation of the state law that this area does in fact meet the standards that have been set forth.

Carlson suggested that if in the future, the city wanted to grow into an area that had acreage development and therefore represents a complicated effort to plan to urbanize, would that be appropriate to be declared blighted because it was difficult to develop? Caruso's response was that it would have to meet the state statute. He does not have enough information on that scenario but in the context of this area, he would say it absolutely meets the criteria.

Pearson agreed that typically we look at buildings and structures as blighted and that is why she thought West "O" made sense. To look at an agricultural landscape and say that it is blighted is a stretch for her. Are we then saying that AG land is blighted land? Caruso's response was, "no". But if you look at the area east of 56th and I-80, it is blighted. When you look at the lack of utilities and the condition you can make that claim. There is nothing in state law that says it has to be 3 acres, 10 acres or 47 acres, but it has to be logical and large enough to generate sufficient resources to make the improvements necessary.

Pearson sought clarification that everyone who owns land inside this mapped area has been notified and agrees to being blighted. Caruso believes that everyone has been notified. They had a public meeting and discussed what is being proposed.

Taylor observed that there was a common thread in the areas recently blighted, i.e. West "O" Street and 48th & "O" Street, and that common thread is the good it would mean to the city. And therefore, private enterprises were able to profit off of a pronounced need for the city. There was acknowledgment that there was something that needed to be done for a corridor of our city. Taylor does not see that common thread in this area. What is the common thread? How is it going to benefit the city to the point that the city should use TIF? Post suggested that economic development is viewed as a public purpose. It increases the tax base and the revenue stream to the city. That is the underlying reason for this, but there are other reasons as well, such as not allowing haphazard development which costs the city to correct. That is a public purpose. That is a cost savings. In blighting areas that are developed, "ugly" development is not a criteria of blight.

Caruso observed that developers have come forward and have said that there is a need for this in that area and that development would occur. There are landowners who have said that development would have occurred faster, more intense, had there been utilities in place. His charge was to take state law and to make a case that this area meets the criteria set forth in state law. The city has determined in discussions with the developers that it made sense to

go forward to investigate that and to bring that forward through the process. And then to authorize the preparation of a redevelopment plan, and it is within that redevelopment plan that the necessary tests are made with reference to cost benefit. Do I think this land would develop given TIF? Based on discussions he has had, Caruso believes it will. This area is an interchange on a major interstate. It would seem that development should have occurred earlier and it has not because of the lack of utilities. The conditions existing because of the lack of utilities meets the test of the state law.

Esseks inquired whether there is any risk to the landowner with a blight designation. Will their investments in their property be jeopardized? Caruso does not believe so. He believes that their property values will be enhanced by the development that occurs as a result of this blight designation. They will have opportunities to sell, if they desire. The ability to attract tenants will be heightened by this designation.

Pearson wondered whether an area has to be blighted in order to get funding. Caruso concurred. CDBG funds would also be available if it has a blight determination. The only other way to get the improvements is through the CIP. This gives an opportunity to use that increment that comes from those new developments that otherwise would not have been there had you not done this to raise the resources.

Pearson inquired whether this development then moves in front of other CIP projects. Caruso could not address that issue. The tax increment would be generated and could only be used within the blighted area and any other areas adjacent that would be declared blighted.

2. Mark Hunzeker appeared in support on behalf of a number of landowners who own property within this area of study. He has worked with a number of the property owners in this area for in excess of 10 years. They have tried very hard to find a way to get improvements made to enable the area to develop in accordance with the Comprehensive Plan. There is a substantial amount of development which occurred lacking the public utilities and the ability to get potable water or sewer, much of which has occurred in a way which is underutilizing this property considerably. The development that you see out there reflects the under-valuation of this land relative to what it ought to be at an interstate interchange in a community the size of Lincoln. We are soon to have a 6-lane interstate; we have 4-lane Hwy 77; there has been substantial interest in development of this area; and he believes, as the study points out, that the development that has occurred in this area and the conditions which exist are a deterrent to further development without the ability to utilize some of the tools available to get sewer and water extended to this area and possibly improve some roadways. He agreed that this is a little bit outside the usual box Lincoln has operated within as far as blight declarations, but this will result in substantial ability to utilize those tools to supplement the CIP funds (not substitute) that are available in order to get some of these things accomplished. Whether or not, and to what extent those things can be done, will depend greatly upon the approval of a

redevelopment plan for this area. Hunzeker believes there will be substantial residential, industrial and commercial components to the redevelopment plan. Arbor Road will become a fairly significant roadway, so there are lots and lots of possibilities here and we think good opportunities if we can alleviate the conditions which are creating a rather unplanned and haphazard development pattern.

Hunzeker also pointed out that the lack of water service is a substantial fire hazard. There is one user in this area which was required as a condition of construction to construct a 26,000 gallon tank to store water for fire fighting, and they are in need of expansion. The expense of doing that is very significant. There are also a couple of lagoons that are not functioning well because the uses don't generate a lot of sewage.

3. Bruce Bohrer appeared on behalf of the **Lincoln Chamber of Commerce**, in support for purposes of planned development. The Chamber believes that this is needed. He agreed that it is a little bit atypical, but in some ways that is a good thing. The Chamber looks at this as something we need to do in order to seize upon economic development opportunities. He commended the Mayor and others that have been involved in this process for being more proactive in this area.

There was no testimony in opposition.

Staff questions

Larson observed that the infrastructure would be built with TIF, but the proposal for development probably would be piecemeal. How do you do that? Naumann stated that it would have to be a large enough user to generate enough TIF funds to bring the sewer and water to that point. If we can bring it adjacent to that point, then it would be up to the developer to take it to their site.

Pearson inquired as to how much taxpayer money would be used for infrastructure financing. TIF is generated from the use so that's not taxpayer funds. Naumann stated that it is really the increment. Under TIF, you set a base, which is the current tax level, and that continues to go to the entities collecting the taxes, and that will always happen. TIF is development on top of that—if there is increased value, that increment stays with the property. It is very geographical and very targeted to the area and stays with the development in that area. There is no additional taxpayer money going to the infrastructure.

Pearson stated that she would like to have a new word for "blight". Naumann agreed and would prefer it be "targeted development".

Carlson commented that the thing attractive about TIF is that it represents money that would not otherwise be generated. Typically we have always used TIF as a rehabilitation tool and not as a new development tool. TIF is new money. Is there an administrative limit? Wynn

Hjermstad of Urban Development indicated that there is a limit as to what percent of the city can be declared blighted and they do monitor it. That is the only administrative limitation and Lincoln is well below that. The older parts of town don't need to worry.

ACTION BY PLANNING COMMISSION:

September 28, 2005

Strand moved a finding of blighted and substandard, seconded by Larson.

Larson commented that this is an important intersection and an important entrance to the city; it is just a natural place for development and this will allow the city to plan the development in an orderly fashion instead of haphazard.

Motion carried 8-1: Krieser, Taylor, Larson, Strand, Carroll, Esseks, Sunderman and Carlson voting 'yes'; Pearson voting 'no'. This is a recommendation to the City Council.

COMPREHENSIVE PLAN CONFORMANCE NO. 05010
FY2006 AND 2007-2011 LANCASTER COUNTY ROAD
AND BRIDGE CONSTRUCTION PROGRAM.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 28, 2005

Members present: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson.

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Ex Parte Communications: None.

Proponents

1. **David Cary** of Planning staff appeared on behalf of the applicant. This is an annual submittal from the County Engineer. The Planning Commission role is to review the proposed program as to conformance with the Comprehensive Plan. The staff report finds that the proposed program is in general compliance with the Comprehensive Plan.

Carlson noticed that the analysis talks about the draft interlocal agreement for the RUTS (Rural to Urban Transitional Streets) Project Coordination and wondered whether the recommendation has changed as a result of not having that funding secured. Cary responded that the finding of conformance was made with the understanding that we had no funding as of yet for that program so the finding of conformance still stands. Those projects identified that would be considered as part of the RUTS program identify the coordination of right-of-way acquisition. That coordination can still take place without the agreement.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

September 28, 2005

Strand move a finding of conformance, seconded by Sunderman and carried 8-0: Krieser, Taylor, Larson, Strand, Carroll, Esseks, Sunderman and Carlson voting 'yes'; Pearson absent at time of vote. This is a recommendation to the Lancaster County Board.

**COMPREHENSIVE PLAN AMENDMENT NO. 05011
FOR A CHANGE FROM GREEN SPACE AND PUBLIC
AND SEMI-PUBLIC TO COMMERCIAL NEXT TO THE
LANCASTER COUNTY EVENTS CENTER ON THE
SOUTHEAST CORNER OF N. 84TH STREET AND
HAVELOCK AVENUE.**

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 28, 2005

Members present: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson.

Staff recommendation: Denial; revised to approval on September 28, 2005, subject to a letter of agreement between the applicant and the city.

Ex Parte Communications: None.

Additional information submitted for the record: Steve Henrichsen of Planning staff submitted a letter from the Pershing Auditorium Advisory Committee requesting that action on this amendment be tabled until the Mayor's Event Facility Task Force has issued its recommendation and conclusions, and the economic development impact study prepared by Agricultural Society has been examined and verified.

Henrichsen also submitted a memo from the Planning Department revising the staff recommendation from denial to a recommendation of approval, subject to scheduling this item on the City Council agenda upon completion of a letter of agreement between the city and the applicant. The letter of agreement will address the issues of floodplain and traffic. The staff believes that the Task Force recommendation might be best formed in terms of looking at how the Events Center fits best into the overall community's plan. The Ag Society and the city have agreed to work out a compensatory storage or no net rise standard. There is a previously approved fill permit on this site and the applicant has agreed not to implement a good portion of that fill permit and that any areas that are going to be used as part of their compensatory storage would be preserved. The staff is proposing that a letter agreement may be the best way to more formally handle this. The Ag Society has also agreed to preserve 5.8 acres in open space uses such as ballfields or continued farming, leaving grass area that may potentially be used as overflow parking on occasion, in exchange for filling the 2.9 acres of land in the floodplain in a commercial area. The street improvements which have been identified can be adequately addressed and the applicant has agreed to dedicate additional right-of-way on both Havelock Avenue and N. 84th Street.

With regard to the site plan, the applicant has agreed to limit any potential zoning of the site that would allow for multiple off-premise signs; that while the Ag Society is another government

agency that is exempt from zoning, the area of their commercial development would follow all of the regulations.

It has also been agreed that the letter of agreement must accompany this amendment when it goes forward to the City Council.

In summary, Henrichsen explained that this amendment now changes a smaller area from green space, public and semi-public to commercial.

In addition, Henrichsen suggested that the forum of the Mayor's Task Force was probably the best forum to have the dialog and discussion as to how the Events Center's overall development fits within the community's plans.

Larson believes that approving this now would seem to muddy the waters. He is on that task force and they are moving toward a recommendation. One of the things that seems to be the consensus is that while the County Fair and State Fair are both essential events, we can only afford one venue. So the decision will come out that there needs to be an appraisal of which site will be the best for the two events. He thinks it would be inappropriate to approve this amendment now while the task force is still in the discussion stage and nearing the end of the discussion stage. He intends to make a motion to delay this amendment for six or eight weeks.

Esseks noted that this is a recommendation to change the Comprehensive Plan. Are there any implications as to the type of zoning and as to the nature of the site plan? Henrichsen stated that, in general, the Comprehensive Plan designation is just one of commercial. When the specific changes of zone come forward, they will be reviewed on a case by case basis. The zoning is also an issue to be discussed in the letter of agreement that goes forward to the City Council.

Taylor wondered whether approval of this now is a blanket approval, or whether it would come back for refining. Henrichsen explained that this amendment would not be scheduled with the City Council until the letter agreement has been agreed upon and completed.

Proponents

1. Bill Austin appeared on behalf of the **Lancaster County Agricultural Society**. The Ag Society is the applicant for this amendment and they are asking for the Commission's favorable approval of the change from green space to commercial. This is not a new idea and it has always been anticipated that the development of that corner for commercial uses would complement the Ag Society. In 2002, this same change was proposed and the staff at that time indicated there was insufficient detail in order to be assured what would occur on this corner. The application at that time was withdrawn.

Now, in 2005, the Ag Society came back with additional detail showing the extent of the campus plan anticipated for expansion by the Ag Society, and they also showed the nature

of the retail uses that would be contemplated – proposed conceptually a hotel/motel of 75 units, 44,000 sq. ft. of retail and 8,000 sq. ft. of restaurant. All of these uses they believe would not only complement the site but also be useful to the area in general. Notwithstanding the additional submittals provided initially, the staff still felt that there was insufficient data on specific areas and recommended denial. In particular, the staff focused on floodplain concerns, traffic concerns and community facilities. Months ago, the applicant asked for deferral and asked for the opportunity to meet with staff to work out some compromise. He believes they have now reached a point of agreement on the land use issues. In the spirit of compromise, the Ag Society has indicated a willingness to relinquish considerable amount of otherwise authorized filling; agrees to engage in compensatory filling of the commercial site; and agrees that there will be a reservation of about 5.8 acres of open space to compensate for the 2.9 acres removed through this change. Austin believes this is a reasonable approach to dealing with the floodplain issues. They have also agreed to the no net rise study. The biggest concern on traffic was whether or not they would be asking for a traffic light at the 84th Street entrance. The Ag Society realizes that no one wants a light there. Then there was concern about whether they understood the on and off-site traffic improvements necessary; and they have agreed to defer those until such time as the actual use permits come in for this site. The Ag Society recognizes that those traffic improvement requirements will be imposed. Austin believes that the land use issues have now been addressed.

Austin explained that the one issue they did not address with the staff in coming to agreement was the one of the task force. The Ag Society's understanding was that there is now a mechanism in place to address the facilities issue in Lincoln. Austin urged that the task force issue has almost nothing to do with the expansion or proposed expansion or anticipated expansion of any of these facilities and, in particular, the Lancaster County Events Center. It exists. This was an idea and concept and desire of the Ag Society even before they contemplated an expansion. Regardless of what happens in terms of an expansion of this facility, the proposals at this time by the Ag Society will complement their existing use and it will place properties back on the tax rolls. It will complement the area. This corner has to be commercial in the future. It allows for economic development in that area. Completely separate and apart from the idea of whether expansion is appropriate or not, Austin requested that the Commission look at this from a land use standpoint.

With regard to the Pershing Auditorium Advisory Committee letter, Austin suggested that that task force work is a separate and distinct issue. Those are appropriate issues to be addressed, but that has little to do with this amendment. Use of this site for commercial purposes will assist the Ag Society and will lessen their tax burden. While the County and State Fair locations may be discussed, the reality is that there is an 11 million dollar facility sitting at 84th and Havelock Avenue that fits the needs of the Ag Society at this time, and the idea that they are going to reunite should not drive the issue being discussed in this application. He agrees that the study should be examined, but it does not address the land use issues that the Planning Commission is being asked to address today. The issue is whether commercial designation is appropriate for this site.

Austin also pointed out that the actual development will be long term and the Planning Commission will have an opportunity to review those actions. This is only the designation in the Comprehensive Plan. The Planning Commission will see the change of zone and use permits and/or special permits. The Ag Society does not have anyone knocking at the door for the use permits at this point. They do have an immediate need because there is a sign at the 84th & Havelock site, a portion of the operation that is not consistent with federal and state requirements, but the designation of commercial would make it consistent.

Carlson does not understand how the Commission can be asked to consider that these are two separate issues – the commercial issue and the expansion issue – when the Ag Society's own letter of application includes a master plan for expansion and specifically talks about how the commercial can enhance the revenues for the expansion. Austin believes that it was the staff that asked for a comprehensive look at the whole site. The Ag Society wanted to focus on only the change to the commercial designation but there was a request from staff to look at a campus plan. There was discussion about this generating revenue for expansion, but that additional revenue will help the Ag Society with the ongoing operation.

Pearson asked for clarification of the Ag Society entity. Austin explained that it is a county agency, funded by the county and by whatever revenues it derives from operation. It is a statutorily-created entity, but they are essentially an arm of the county. Pearson then commented that there has been a lot of information floating around about the amount of money that went into building the facility and how much money they actually make or don't make. And the Ag Society hired someone to study the economic development impact, so to say you are not going to add onto it seems a little odd. Pearson believes there are big fiscal questions. Austin stated that from day one the Ag Society contemplated development of this site for commercial purposes to provide complementary uses. The Ag Society certainly did go out and obtain an economic development study to show what one could anticipate from the use of this venue, but to some extent that is a defense, because if you can't go in and show what you are doing, why and what you contribute to this community, you are left without a defense. Austin believes they have a pretty good case to say not only is this a facility that provides a considerable amount of economic development drive for this community, but also to a very large extent this is simply not a facility that is competing with existing facilities. It is an equestrian, agriculture related facility. Those aren't things that can be handled in Pershing Auditorium or a new convention center. They have a specialty niche facility that has been complementary to the economic development of this community.

Strand suggested that in the worst case scenario where the task force says we want the Ag Society to reunite with the state and the Ag Society wants to sell the building, wouldn't it be more valuable and easier for taxpayers to recoup if the property were zoned commercial? Austin agreed.

There was no testimony in opposition.

Pearson asked whether Public Works is satisfied that the floodplain issues have been addressed. Nicole Fleck-Tooze of Public Works & Utilities indicated that she was also

involved in the discussions and she thinks they worked hard to find some common ground and is satisfied with the compromise.

ACTION BY PLANNING COMMISSION:

September 28, 2005

Larson moved deferral for eight weeks, seconded by Pearson.

Larson reiterated that the task force has been meeting weekly for about three months and they are reaching consensus. He is not saying that the State Fair might not move to this location. There are some advantages for that to happen. There are also some advantages for this event to move back to the State Fair, but it is becoming increasingly clear that we cannot afford both venues in this community. He has a tremendous amount of personal history with this situation, being on the Lancaster Agricultural Society when the decision was made to move to this location. He was not in favor of it and got off the board. Since then the history has been one of almost uncontrolled growth. It was originally decided to be a rather small horse arena to have horse shows and a County Fair. It ended up being an eleven million dollar facility. It is still not an economically viable situation without tax money and they want to expand into an area where the demand for those kinds of things is decreasing. It just seems prudent for us to delay this until this task force finishes its sessions and makes a recommendation to the Mayor, and then the Mayor makes her recommendation to the community. As far as he knows, there is no advantage or disadvantage to the applicant for this move to be made right now.

Esseks is in favor of approving this change based on the letter of agreement. He is impressed with the willingness to compromise and resolve the floodplain issues. He thinks the property is appropriate for commercial use. They came before us in good faith.

Pearson acknowledged that we have the Events Center talking to the Planning Department, but that is the only agreement they have made. She does not know that there has been a consensus except between the applicant and the Planning Department. She thinks deferral to hear the report is critical when talking about city/county resources and where it is going to go over the next year. Can't we wait eight weeks to decide where a lot of money out of the taxpayer pocket is going to go? It is not wise to let people spend county money to do something that has not been agreed upon by the residents. She will vote to defer.

Taylor commented that there are two parties in agreement. All the Planning Commission is doing is making an amendment to the Comprehensive Plan to change it from green space to commercial. He is in favor of moving forward.

Rick Peo, City Law Department, reminded the Commission that when an applicant has a request before the Commission, it is the duty and function of the Commission to make a recommendation and not to basically hold the applicant hostage for a period of time without the applicant's consent. This is a request by the Ag Society. If there is an appropriate place and time for deferral, then that can be decided by the City Council and the Mayor's veto prerogative. It is the Planning Commission's function to make a recommendation to the City Council.

Carroll stated that he is opposed. He would think the Agricultural Society would be in favor of protecting the wetlands as opposed to reaching a compromise. He thinks this site has been wrong and their new master plan is wrong. The design of the new building with parking a long way away for the commercial buildings is more mistake and more problems. From the very beginning this site has had problems. It has been funded by the public and there has not been taxpayer opportunity to put their say into how it is run. It is the wrong time to change this to a commercial area.

Carlson commented that this is a difficult decision when we have a government agency involved. In terms of the Comprehensive Plan, we have a downtown as the cultural entertainment center. He believes the task force recommendation is important before making this decision.

Motion to defer failed 4-5: Pearson, Larson, Carroll and Carlson voting 'yes'; Krieser, Taylor, Strand, Esseks and Sunderman voting 'no'.

Strand moved approval, subject to the letter of agreement, seconded by Sunderman.

Larson stated that he is still opposed. He had hoped to get more information. There is no doubt that what is happening is that the Ag Society is trying to expand an operation that is questionable at the present time. And to throw more money into it now before we decide on the community-wide issue of where these two venues are going to be located seems foolish. Nothing is going to happen immediately, but if we approve this it will give this a blessing that the other areas involved don't have. It is going to sound like the Planning Commission favors this particular spot and he doesn't think they do. He believes that the Planning Commission should take a neutral position until the task force finishes its work.

Pearson does not understand where all of the money is coming from. Funding for the State Fair came from the taxpayer; funding for the Event Center will come from taxpayer dollars; and funding for the Lancaster County Events Center comes from taxpayers. She does not understand why government officials continue to support development in three different locations. There has been no proven study showing that all of these event centers need to happen. She disagrees that the Agricultural Society has unique facilities that are not duplicated anywhere, except the State Fair. The State Fair and Agricultural Society are competing for taxpayer dollars. The Planning Commission should stay out of it and let the decision makers decide where the taxpayer money goes.

Taylor stated that he is in favor. We should let the process move forward.

Carlson stated that he absolutely disagrees that these are two separate issues. From day one of this plan, before it was even approved, it showed a master plan showing commercial to generate revenue to fund development. It may seem like a great idea for this commercial to generate dollars, but what is actually happening is that the Ag Society is an arm of government wanting to create commercial enterprises. This was a bad idea from the start. It is a bad idea to come forward as a Comprehensive Plan amendment because this amendment is not comprehensive in nature. It does not look at the competition, the impacts, the overall picture. He believes it wastes taxpayer dollars and hurts existing enterprises.

Motion for approval, subject to the letter agreement prior to scheduling on the City Council agenda, carried 5-4: Krieser, Taylor, Strand, Esseks and Sunderman voting 'yes'; Pearson, Larson, Carroll and Carlson voting 'no'. This is a recommendation to the City Council.

MISCELLANEOUS NO. 05017 (424 North Coddington Avenue);

MISCELLANEOUS NO. 05018 (1661 Timber Ridge Road);

MISCELLANEOUS NO. 05019 (5516 Hunts Drive); and

MISCELLANEOUS NO. 05020 (416 North Coddington Avenue);

REQUESTS FOR "REASONABLE ACCOMMODATION".

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 28, 2005

Members present: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson.

Staff recommendation: Conditional approval of Miscellaneous No. 05017 and 05020, and approval of Miscellaneous No. 05018 and 05019.

Ex Parte Communications: None.

Additional information submitted for the record: The Clerk announced that the applicant has requested a two-week deferral.

The applicant was not present.

Strand made a motion to defer, with continued public hearing and action scheduled for October 12, 2005, seconded by Carroll.

Pearson stated that she will vote against deferral. The applicant should present their case or give it up.

Strand suggested that when there is a request for deferral in advance, possibly it should be placed at the beginning of the agenda so that those who have come for the hearing do not have to wait three to four hours.

Esseks is still interested in a workshop on this issue.

Rick Peo, City Law Department, suggested that anyone who wants to testify should sign in and leave their name and address so that we can notify them of future requests to defer, if any.

Motion to defer two weeks, with continued hearing and action on October 12, 2005, carried 7-2: Krieser, Taylor, Strand, Carroll, Esseks, Sunderman and Carlson voting 'yes'; Pearson and Larson voting 'no'.

Opposition

1. **Rebecca Barnes**, 330 N. Coddington Avenue, inquired as to the number of times an applicant can request a deferral. Carlson advised that there is no written limit; it is up to the discretion of the Planning Commission whether or not to approve the request.

CHANGE OF ZONE NO. 05052

UNIVERSAL ADDITION PLANNED UNIT DEVELOPMENT

ON PROPERTY GENERALLY LOCATED

AT SOUTH 14TH STREET AND PIONEERS BLVD.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: September 28, 2005

Members present: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Additional information submitted for the record: The Clerk announced that the applicant has requested a four-week deferral.

Strand moved to defer four weeks, with continued hearing and action on October 26, 2005, seconded by Carroll and carried 9-0: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carroll voting 'yes'.

The applicant was not present and there was no public testimony.

*** Break ***

THREE DRAFT FUTURE SERVICE LIMIT SCENARIOS

FOR THE CITY OF LINCOLN FOR THE YEAR 2030.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 28, 2005

Members present: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson.

Staff recommendation: Adoption of Scenario 1.

Ex Parte Communications: None.

Steve Henrichsen of the Planning staff explained that this public hearing is not typical because it is part of the Comprehensive update. After review of Scenarios 1, 2 and 3, the staff is recommending that the Planning Commission adopt Scenario 1 looking to the year 2030. This is an update of the Comprehensive Plan from year 2025 to year 2030. The update contemplates adding about 115,000 persons, bringing the population to 355,000, a 48% increase from where we are today. However, the staff recommendation is actually a 60% increase in the city limits, some due to the annexation of Pioneers Park and Wilderness Park which currently sit outside the city limits.

The “sunrise” areas are new areas proposed to be added to the Future Service Limit. There are five areas identified with a sunrise symbol on the land use map, which represent “large employer opportunity” areas. Five areas have been identified, not all of which would be available in the near term, but areas which the staff believes over the next 25 years may be suitable for employment. This does not amend the Comprehensive Plan at this time. This is a draft map. The staff will continue to look at how to provide utilities to the N. 40th and I-80 area and any impact that may have on the saline wetlands. In regard to the three square miles proposed to be added to the Future Service Limit, the staff has selected sites that can be served in the most economical manner. None of the areas call for large investments to serve them and they are areas where we do have some developer interest.

Henrichsen noted that the “large employer opportunity” areas are additional areas for primary employers, but these are not the only sites. There are many other areas designated for large industrial, commercial, office and potential employers, such as downtown, University Tech Park, Airport Subarea Plan, 98th & O, Wilderness Hills, and many other areas. The “sunrise” areas being designated are just some additional sites.

Public Testimony

1. Don Wesely and Rick Onnen of EDC, appeared on behalf of **Larry Coffey**, property owner of about 1530 acres along US Hwy 34 between N.W. 40th and N.W. 77th. This is a significant amount of property and Coffey is interested in moving forward with potential development. Mr. Coffey is in support of the recommendations which include a substantial amount of the Coffey property. There is additional property to the west and north which Coffey does own but understands that it will be brought in in the future.

Wesely observed that tomorrow the bids will be opened for widening Hwy 34 to four lanes. This is a State road project and it will be four-lane from N.W. 27th to the west of N.W. 70th. Work should begin a little bit this fall but in earnest next spring, with completion two years from now. This is a tremendous opportunity for the city. This area will be minutes away from downtown Lincoln. The big gap in our infrastructure is in arterial streets. Here is a project that gives the opportunity to take advantage of a state road widening project. The 1500 acres owned by one individual is tremendous and over 1200 acres are in the floodplain. Employers

have already looked at this site. If this property is included in the Future Service Limit, Wesely believes we will see development occur here which is a great opportunity for the city. Coffey is supportive of being included, but would request the inclusion of one site just to the north of the current boundary of the Future Service Limit. Wesely requested that the staff recommendation be amended to add the Coffey site that goes slightly north of Hwy 34. Part of that area has already been zoned commercial by the City Council. Coffey has also been working with LES, which is considering locating a substation similarly in that area that will then be used for the power line. Wesely requested that this area be brought in, zoned commercial and be part of the Future Service Limit.

Onnen advised that the Oak Creek trunk sewer system study has been underway, and he believes the final report will show extension of a trunk sewer line along N.W. 48th Street that would eventually reach up to this area over a period of time. The owner is willing to partner with the city to extend that trunk sewer over to this property and move forward with that at some point in the future.

Wesely reiterated that this is a great opportunity. This will provide for development that has an arterial street reaching into the downtown.

In terms of the sewer, Onnen believes that this area is prime for development. The Planning Department has indicated that these areas marked with the sunrise would be somewhat eligible for some expedited process if a user came in. Coffey is proposing to at least bring a portion in to try to eliminate some of the confusion in terms of how to get utilities to that area without having the CIP be outside the service limits. The sewer study that is underway is looking at bringing in 1500 acres and they are talking about building a dual system that would handle 3,000 acres on the upstream. Despite Planning's suggested expedited process, Onnen lacks a little bit of confidence that that process could move as fast as the user comes in.

Esseks inquired as to sharing in the cost of the sewer line extension. Wesely suggested that if it gets to the point of cost sharing, they can discuss that. They need to move forward to start doing the design work. It is a simple extension of the sewer line. The design work takes an extremely long period of time. The request is to include this area because it is prime for potential development and they will start working on getting things ready if the opportunity comes to add some employment.

2. Weston Furrer, 4130 N. 21st Street, the owner of property on NW. 48th St. and Cuming. A four-lane highway is due to go across his property. He has owned the property for 35-40 years. Years ago, the city came to him and wanted to build a water tower. They told him he could choose the design and color. He is not happy with what was built. He has no plans for immediate development but it is good residential property. The plan shows W. Cuming Street will be a four lane highway. Sewer lines will be coming up to his property. He requests that all of his property be included in the future service limit scenario. He would like to see all of his property eligible for annexation.

3. Mark Hunzeker appeared on behalf of **Developments Unlimited**. In response to the Planning Director request, he submitted a request to include the area north of I-80 between 40th Street and the area currently within the future service limit. Hunzeker stated that he is in the process of studying the extension of utilities because Public Works told him that utilities need to be studied. They would like to see sites ready in 12 months. Doing that in 12 months is problematic, if the studies haven't been done. In working with this area, Darl Naumann has had to forego making a proposal for a large distribution center because there was no site large enough with utilities. He is aware of a major employer who is interested in the site. The site has generated a lot of interest because of its Interstate access. They would like to get specific plans done.

Larson wondered how many acres this property includes. Hunzeker replied that the area controlled by his client is around 550 acres. With area that is already commercial in the area, it would probably be around 1000 acres.

Pearson questioned if this property is in the blight study. Hunzeker replied that most of the property is included.

4. Jim Locklear testified on behalf of **UNL**. He pointed out that the nine-mile prairie is located in northwest Lincoln and he would like to see this area preserved. It is a 230 acre tall grass prairie owned by the UNL Foundation. It is an internationally important resource and used extensively by researchers. It is also a recreational and educational resource. He is asking that this area be given special consideration against encroachment from commercial and residential development.

Esseks wondered what kind of use would be preferable. He can see residential being potentially dangerous. Locklear thinks it is possible if there was enough green space or buffer, but a warehouse or something like that would not be a problem. They burn the prairie occasionally and it puts out a lot of heat.

Carlson sought confirmation that Locklear is satisfied with the current scenario recommended by staff. Locklear noted that two of the scenarios brought development next to the prairie.

Staff questions

Pearson would like staff to address the comments just heard.

Henrichsen noted that the first area addressed by Don Wesely on behalf of Larry Coffey is generally the area where N.W. 48th bends and goes into Hwy. 34. Both of those roads will be connected together. They would like to get a large employment center within the future service limit. Staff would agree with this very small change.

With regard to the nine mile prairie, Henrichsen noted that the Airport owns the area to the north. Generally, the line was picked to show the 2080 elevation. This is a generalized future service limit. 90% of the Furrer property is included except the property next to the water

tower. This area would mean a booster district to obtain adequate water pressure. The staff preference would be to leave the service limit where it is.

Further, with regard to the nine mile prairie, Henrichsen suggested that the Commission could pull the line back to visually represent their preference; however, the staff does not recommend eliminating the entire area. There is privately owned land next to the prairie that is not proposed for development.

With respect to the additional area on N. 40th St. and I-80 requested to be included by Mark Hunzeker, Henrichsen concurred that sewer and water is already being worked on in this area. There is one site for potential large employers. He would recommend this land not be included in the future service limit. This land drains south and into the area of the Salt Creek tiger beetle. The beetle could become a federal endangered species as of next year. There are issues about how to sewer through a saline wetlands. Staff is already working with Hunzeker on these issues, but Hunzeker does not believe this needs to be within the service limit to continue those discussions.

Pearson wondered why the area wouldn't be included in the future service limit if it is included in the blight study. How is this in the blight study for redevelopment funds but not in the future service limit? Henrichsen replied that the fact that this is in the blight study does not mean it will be included in a future redevelopment plan. The blight study was paid for by Developments Unlimited.

Larson agreed with Pearson. He doesn't understand how this property can be in a TIF eligible area but be outside the service area. Henrichsen stated that ultimately this area will be impacted by saline wetlands, thus it wouldn't be included in the redevelopment plan. The first step was a blight designation. The next step is a redevelopment plan. The blight study notes that this property is outside the redevelopment area. Larson does not agree.

Esseks believes these are two separate designations. The redevelopment area will be a much narrower study. Henrichsen stated that the area for blight study was proposed by the applicant. There is no commercial zoning present today.

Strand understands that Mr. Naumann picked the land for blight because a certain number of acres is needed for funding. Naumann replied there are challenges with this property due to water flows. As far as being blighted and TIF funding, they are interested in having a large enough site for an employer to be interested and make enough money to fund the improvements. It could possibly work to be designated as a future employment site, but it would make his job tougher. His preference would be to leave it as is.

Larson inquired whether this amount of land was necessary to declare the land blighted. There had to be enough acres to make it qualify. Naumann replied that it did certainly help.

Pearson wondered if the north land is owned by one individual. Naumann believes they have options on at least 500 acres.

Henrichsen stated that the staff recommendation is as stated in the memo dated September 14, 2005.

ACTION BY PLANNING COMMISSION:

September 28, 2005

Larson moved to adopt the staff recommendation, as set forth in the memo dated September 14, 2005, seconded by Strand.

Larson moved to amend to add the area on Highway 34 and N.W. 40th, as requested by Don Wesely on behalf of Larry Coffey, seconded by Strand and carried 9-0: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson voting 'yes'.

Larson moved to amend to add the area requested by Furrer, seconded by Taylor.

Carroll thinks it will cost millions to serve that tiny piece.

Motion to amend to include the Furrer property failed 2-7: Taylor and Larson voting 'yes'; Krieser, Pearson, Strand, Carroll, Esseks, Sunderman and Carlson voting 'no'.

Strand moved to amend to add the N. 40th St. and I-80 area as requested by Mark Hunzeker, seconded by Larson.

Esseks sees many obstacles to add this area.

Strand thinks the saline wetlands and the tiger beetle will need to be addressed at some point anyhow. This just makes more sense since it is in the blight study.

Larson agreed. This is the kind of thing Lincoln needs for development.

Carroll thinks this is a tough one. We want development in this area. It was in the blight study.

Pearson agreed with Esseks. It is an environmentally sensitive area. Just because it is in the blight study doesn't mean it should be in the future service limit. This is too sensitive and on the other side of a drainage basin.

Larson disagrees with Pearson. He does not see what difference it makes whether the land is owned by one person or many. He sees this as an important piece of property.

Henrichsen stated that there are lots of other large employment centers within the future service limits. Pearson noted that the map designates this as a possible employment center.

Carlson does not believe the blight classification mandates the Commission to do anything with this property. Naumann noted that it is nice to have a large parcel to attract employers. We can run further studies on this property to see what will happen.

Pearson agrees. The blight study does not say this is developable land. It doesn't mean this meets all the criteria for development. She thinks the applicant wants to use TIF funding, but she doesn't see this as developable until a long way down the road.

Henrichsen clarified that this area is not saline wetlands or tiger beetle east of 40th Street. It drains west to Little Salt Creek into saline wetlands and into the area of the Salt Creek tiger beetle. It is a concern of drainage and water impact. Esseks thinks the developer can be forewarned of the environmental challenges.

Motion to amend to add the area at North 40th and Interstate 80 carried 6-3: Krieser, Taylor, Larson, Strand, Carroll and Sunderman voting 'yes'; Pearson, Esseks and Carlson voting 'no'.

Main motion, as amended, carried 9-0: Krieser, Taylor, Pearson, Larson, Strand, Carroll, Esseks, Sunderman and Carlson voting 'yes'.

There being no further business, the meeting was adjourned at 5:30 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 12, 2005.